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Letter dated 17 August 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 5 May 2004 (S/2004/362). The Counter-Terrorism Committee has received the attached fourth report from Ireland submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrei I. **Denisov**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 30 July 2004 from the Chargé d'affaires of the Permanent Mission of Ireland to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I refer to the letter of 30 April 2004 from the former Chairman of the Counter-Terrorism Committee, Inocenio Arias, and have the honour to forward to you the fourth report of the Government of Ireland (see enclosure).

Ireland attaches great importance to its compliance with the terms of Security Council resolution 1373. To this end, I welcome the spirit of constructive cooperation in which Ireland and the Committee are currently engaged and would welcome any further comments or questions that you may have in relation to any of the items addressed in the report or contained in the resolution

(*Signed*) Philomena **Murnaghan**
Deputy Permanent Representative
Chargé d'affaires a.i.

Enclosure*

Fourth report by Ireland to the Counter-Terrorism Committee established pursuant to the paragraph 6 of resolution 1373 (2001)

The following report has been compiled in response to the specific comments and questions on 'Implementing Measures' contained in the letter of 30 April 2004 of the Chairman of the Counter-Terrorism Committee.

1. Implementation Measures

Effectiveness in the protection of financial systems

1.1 The Money Laundering Investigation Unit at the Garda Bureau of Fraud Investigation (Irish F.I.U.) has allocated a Detective Sergeant to deal with issues believed to be connected with the financing of terrorism. This is adequate to handle the enquiries relating to the financing of terrorism. Enquiries are conducted on Suspicious Transactions (STRs) and those transactions suspected of being related to the financing of terrorism are reported to the Assistant Commissioner Crime and Security.

The strength of the Money Laundering Investigation Unit will be reviewed on full enactment of the Criminal Justice (Terrorist Offences) Bill, 2002.

Members of the Garda Síochána (Irish Police Force) from Crime and Security Branch and the Garda Bureau of Fraud Investigation together with representatives from the Department of Finance, the Central Bank, Irish Financial Service Regulatory Authority, and the Department of Justice, Equality and Law Reform form the 'Money Laundering Working Group on Terrorist Finance'. The most recent meeting of this group focused on Terrorist Financing Guidance Notes for circulation within the finance industry.

1.2 Statutory Instrument 242 of 2003 came into effect on 15 September 2003. Two further regulations on money laundering have been introduced since 7 August 2003 when Ireland submitted its third report to the UN Security Council Counter Terrorism Committee. Details of these regulations, which further bolster Ireland's fight against money laundering, are as follows:

Statutory Instrument 417 of 2003 contains a technical amendment to the exemption clause on reporting obligations under Statutory Instrument 242 of 2003 in relation to solicitors in order to reflect more accurately the wording of the directive.

Statutory Instrument 3 of 2004 prescribes activities under Section 32 (10) of the Criminal Justice Act 1994 which apply to the newly designated bodies under Statutory Instrument 242 of 2003. These refer to activities in relation to the carrying on of the business of

* Annex is on file with the Secretariat and is available for consultation.

accountant, auctioneer, estate agent, tax advisor; certain activities in relation to solicitors; activities consisting of the provision of services in relation to the purchasing of land, the provision of investment business services or investment advice; the carrying out of trustee or custodian duties for a collective business scheme; the provision of money remittance services; activities of administration companies consisting of the provision of services to collective investment schemes; activities of dealers in high value goods; and activities of operating a casino.

Copies of S.I. 242 of 2003, S.I. 416 of 2003 and S.I. 3 of 2004 are available on www.justice.ie under Law Reform - Publications.

With effect from the 15th September 2003, in accordance with Statutory Instrument 242 of 2003, extra bodies were designated for the purpose of reporting STRs. These bodies include solicitors, accountants, estate agents, tax advisors, dealers in high value goods, casinos, etc.

Under the provisions of Section 57 of the Criminal Justice Act 1994 the Garda Bureau of Fraud Investigation received notification of the following STRs in respect of 2001, 2002, 2003 and to date in 2004:

Year	STRs
2001	3040
2002	4398
2003	4254
2004 (up to 30/07/04)	2373

The above figures cannot be interpreted in any circumstances as representing the total number of suspicious transactions as such reports are, in the first instance, based on mere suspicion by the designated reporting body. On investigation the majority remain inconclusive and cannot be linked to any predicate offence.

The STRs reported are investigated by the Garda Bureau of Fraud Investigation, by the Criminal Assets Bureau or by nominated local officers appointed and trained in each Division as appropriate. Any transaction involving money laundering or other criminal activity is fully investigated and if necessary the assistance of law enforcement agencies in other jurisdictions in invoked.

1.3 The Criminal Justice (Terrorist Offences) Bill 2002, which will, inter alia, enable Ireland to accede to four more international instruments (see paragraph 1.9 below), is currently awaiting committee stage in the Oireachtas (Irish Parliament) and is expected to be enacted during the next parliamentary session.

1.4 In keeping with its international commitments and EU Regulations for combating terrorism, Ireland has reported to the European Commission the names of 6 individuals who

maintained a total of 8 accounts with financial institutions in the State. The aggregate value of funds in these accounts, which are now frozen, is €90,000.

1.5 Ireland's Consultation Paper on Establishing a Modern Statutory Framework for Charities is attached at annex 1.

1.6 There are certain special provisions applicable in criminal proceedings relating to terrorist activities, as incorporated in the Offences against the State Acts 1939-1998. These Acts contain a number of special features designed to counter domestic terrorism, for example, a non-jury 'Special Criminal Court' presided over by three judges in which trials that are terrorist-related are heard.

All members of the Garda Síochána (Irish police service) receive training in the investigation of all forms of crime. Special Units are established to focus on particular aspects of crime, such as terrorist financing methods, and members of such units receive specialist training to prepare them for this specialist work.

The Criminal Assets Bureau (CAB) was established in 1996 with the objectives of identifying and seizing the proceeds of crime. Under the provisions of the Proceeds of Crime Act 1996, the CAB may apply in the High Court for orders to freeze property believed to be the proceeds of criminal activity. Where the Court grants an interlocutory order freezing the property and that order remains in force for seven years, the CAB may apply to Court to have the property transferred to the Minister for Finance.

Orders to freeze property are granted where the CAB demonstrates to the Court, on the balance of probability (i.e. the standard of proof required in civil proceedings) that the property represents the proceeds of crime. It is not necessary that there be a criminal conviction before the Court will grant an order under the 1986 Act.

Under the Irish Constitution the judiciary is entirely independent of the executive and as such it is responsible for its own training. The Judicial Studies Institute organises training sessions and seminars on subjects of relevance to the work of Irish judges but has not conducted specific training on terrorist financing or the tracing of terrorists' assets. It should however be noted that the Irish judiciary has no prosecutorial or investigative functions.

Effectiveness of Counter-Terrorism Machinery

1.7 The use of special investigative techniques is not currently provided for in Irish legislation.

1.8 In the last 16 months (as at 23 June, 2004), 39 persons have been charged with terrorist-related offences. Nine have been convicted and 30 await trial.

1.9 The Convention on the Marking of Plastic Explosives for the Purpose of Detection entered into force in Ireland in September 2003.

Ireland has enacted legislation which will enable it to ratify the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 and the Protocol to that Convention for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms on the Continental Shelf, 1988. Instruments of accession are currently being prepared and it is expected that Ireland will become party to the Convention and the Protocol before the end of 2004.

The four conventions that remain to be ratified or acceded to are as follows:

The International Convention for the Suppression of the Financing of Terrorism, 1999;
The International Convention against the Taking of Hostages, 1979;
The International Convention for the Suppression of Terrorist Bombings, 1997; and,
The Convention on the Prevention and Punishments of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1973

Ireland will be in a position to become party to these conventions as soon as the Criminal Justice (Terrorist Offences) Bill 2002 is enacted. The Criminal Justice (Terrorist Offences) Bill 2002 is currently awaiting Committee stage in the Oireachtas (Irish Parliament). It is expected that it will be enacted during the next parliamentary session.

Effectiveness of Customs, Immigration and Border Controls

1.10 Ireland, like other European Union Member States, does not prevent the normal free movement of capital or current payments to or from the State by individuals or corporate entities. This freedom applies equally to EU and non-EU countries and includes the cross-border movement of cash, negotiable instruments or precious metals. However in making any such transfers or payments the financial institutions or transferors involved must be cognisant of the fact that there are financial sanctions in place under various EU Council Regulations - enforced domestically under the provisions of the Financial Transfers Act, 1992 and the European Communities Act, 1972 - which affect transfers to / from jurisdictions, entities and individuals which are the subject of UN or EU sanction.

Powers exist to seize cash under s.38, Criminal Justice Act, 1994 but are confined to drugs-linked cash being imported or exported from the state. This power, by virtue of an amendment included in the Criminal Justice (Terrorist Offences) Bill, 2002, is due to be extended to cash intended for use in the financing of terrorism. It is also due to be extended to cash that is the proceeds of crime/criminal conduct, which may be seized anywhere in the state under the Proceeds of Crime (Amendment) Bill, currently being drafted.

1.11 There are four ways in which a person born outside Ireland can obtain Irish citizenship; by means of a grant as a token of honour, by descent (in certain cases by signing the Foreign Birth Register), by naturalisation or by marriage to an Irish citizen (post-nuptial citizenship). Below is some general information about Post-Nuptial citizenship and Naturalisation.

Post-Nuptial Citizenship

A non-national married to a person who is an Irish citizen (otherwise than by naturalisation, post-nuptial declaration or honorary citizenship) may accept Irish Citizenship as his/her post-nuptial citizenship by lodging a declaration not earlier than the three years from the date of the marriage - or three years from the date on which the applicant's spouse became an Irish citizen - whichever is the later. The marriage must be subsisting and the couple must be living together as husband and wife at the time of the lodgement of the declaration.

The statutory provisions governing this process were repealed in the Irish Nationality and Citizenship Act, 2001, with effect from 30 November 2002. A transitional provision in that Act provides that non nationals who married prior to 30 November 2002 and who fulfil the statutory conditions (three years marriage etc.) may make a declaration of post-nuptial citizenship on or before 29 November 2005. Persons who marry on or after 30 November 2002, or persons who married prior to that date but do not avail of the transition period, will be required to apply for naturalisation in accordance with the provisions set out below.

Naturalisation

The Minister for Justice, Equality and Law Reform may, in his absolute discretion, grant an application for a certificate of naturalisation provided certain statutory conditions are fulfilled. In the case of a non national applicant who is the spouse of an Irish national those conditions are that the applicant must be of full age, be of good character, be married to the Irish citizen for at least 3 years, be in a marriage recognised under the laws of the State as subsisting, be living together with the Irish spouse as husband and wife, with the Irish spouse having had a period of one year's continuous residency in the island of Ireland immediately before the date of the application and, during the four years immediately preceding that period, have had a total residence in the island of Ireland amounting to two years, intend in good faith to continue to reside in the island of Ireland after naturalisation have made, either before a Judge of the District Court in open court or in such a manner as the Minister, for special reasons, allows a declaration in the prescribed manner, of fidelity to the nation and loyalty to the State.

In other cases the Minister may, in his absolute discretion, grant an application for a certificate of naturalisation provided certain (more rigorous) statutory conditions are fulfilled. Those conditions are that the applicant must, be of full age, be of good character, have had a period of one year's continuous residency in the State immediately before the date of the application and, during the eight years immediately preceding that period, have had a total residence in the State amounting to four years, intend in good faith to continue to reside in the State after naturalisation have made, either before a Judge of the District Court in open court or in such a manner as the Minister, for special reasons, allows a declaration in the prescribed manner, of fidelity to the nation and loyalty to the State.

It should be noted that in the context of naturalisation certain periods of residence in the State are excluded. These include periods of residence in respect of which an applicant does not have permission to remain in the State, periods granted for the purposes of study and periods granted for the purposes of seeking recognition as a refugee within the meaning of the Refugee Act, 1996.

Change of name

An Irish citizen may execute a deed poll in the High Court to change his or her name. The provisions that ensure that the person's true identity can be ascertained are as follows:

During the course of processing an application for Irish citizenship, comprehensive documentation is sought in relation to an applicant's identity and background, and this information is retained. There are cases, such as where an applicant may have fled his or her homeland in a hurry, where such documentation is not available. In most such cases, affidavits will be accepted.

In cases where the original birth certificate is available, a note is attached to the original birth certificate with details of the change of name by deed poll.

Control of Preventing Access to Weapons by Terrorists

1.12 Internationally the role that Customs can play in counter-terrorism is being given greater recognition and Irish Customs are keenly aware of what they can contribute in preventing the illegal trafficking of explosives and weapons including Weapons of Mass Destruction. Smuggling of any such weapons is an offence under customs law. As part of their role in protecting society Irish Customs plan to introduce a high-tech vehicle/container scanning system for use at Irish ports to assist in the detection of, amongst other things, such weapons.

In addition, during the Irish Presidency of the European Union in the first semester of 2004, a project team drawn from a small number of Member States was established under the Customs Cooperation Working Group to examine Customs role in counter-terrorism. The team is still working and is expected to report during the Dutch Presidency.

Control on Preventing Access to Weapons by Terrorists

Explosives:

The primary legislation that controls the importation, manufacture, transportation and storage of explosives in Ireland is the Explosives Act, 1875. All imports of explosives are controlled by means of an import licensing system regulated by the Department of Justice, Equality and Law Reform. In addition five substances (Ammonium Nitrate, Sodium Chiorate, Potassium Nitrate, Sodium Nitrate and Nitro-benzene) have been deemed to be explosives in accordance with the Explosives Act, 1875 in the interests of public safety and

security. The effect of deeming these substances to be explosives is that they attract the same controls as conventional explosives i.e. importation, transportation and storage controls. The rationale for the implementation of this control measure is the ready availability of these substances for agricultural purposes and their suitability for use in improvised explosive devices.

The Garda Síochána (Irish Police) have a responsibility for the security of explosives during transport and in some cases provide security at storage locations. Shipments of explosives are routinely escorted within the State, and when requested to do so the Irish Defence Forces will support the Garda Síochána in the escort of explosives in fulfilment of their Aid to Civil Power function.

Firearms:

The possession, use and carriage of firearms and ammunition are controlled by the Firearms Acts, 1925 to 2000. In accordance with this legislation, it is not lawful for any person to have in his or her possession, to use or to carry any firearm or ammunition unless such possession, use or carriage is authorised by a firearm certificate granted under the provisions of the Acts. The Department of Justice, Equality and Law Reform has responsibility for the import of firearms and ammunition into the State. The Department operates a restrictive importation policy with respect to firearms and ammunition. There is a prohibition on the importation of pistols, air-pistols, revolvers and stun-guns. The Criminal Justice Amendment Bill 2004 will, when enacted, unify the provisions of the importation policy and the current licensing provisions.

Relevant Legislation in relation to Firearms:

Primary Legislation

Firearms Acts, 1925 to 2000
Explosives Act, 1875

Secondary Legislation

Firearms

Firearms (Temporary Custody) Order, 1972 (S.I. No. 187 of 1972)
Firearms (Dangerous Weapons) Order 1972 (S.I. No. 251 of 1972)
Firearms Regulations 1976 (S.I. No. 239 of 1976).
European Communities (Acquisition and Possession of Weapons and Ammunition) Regulations, 1993. (S.I. No. 362 of 1993)
Firearms Certificate for Non-Residents Order, 2002 (S.I. No. 48 of 2002)
European Communities (Acquisition and Possession of Weapons and Ammunition) (Amendment) Regulations, 2002 (S.I. No. 49 of 2002)

It is current policy to grant importation licences for only shotguns, crossbows, unrifled airguns, and rifles up to .22 inches (5.6mm) except in the case of deer hunting and competitive target shooting when bolt action rifles up to .270 inches (6.8 mm approx.) are authorised. Pistols, air-pistols, revolvers, handguns and stun guns are totally prohibited.

Persons under 16 years may not possess firearms. In addition it is current policy not to permit the importation of ammunition by individuals.

Explosives

Stores for Explosives Order, 1955 (S.I. No 42 of 1955).
Explosives (Ammonium Nitrate and Sodium Chlorate) Order, 1972 (S.I. No. 191 of 1972)
Explosives (Nitro-Benzene) Order, 1972 (S.I. No. 233 of 1972)
Explosives (Potassium Nitrate and Sodium Nitrate) Order, 1972 (S.I. No. 273 of 1972)
Keeping of Fireworks Order, 1984 (S.I. No 129 of 1984).
Import of Explosives Order 1994 (S.I. No. 449 of 1994)
Classification and Labelling of Explosives Order 1994 (S.I. No. 450 of 1994)
European Communities (Placing on the Market and Supervision of Explosives for Civil Uses) Regulation 1995 (S.I. No. 115 of 1996)
Sale of Explosives Order, 1997 (S.I. No. 364 of 1997)
Ammonium Nitrate Mixtures Exemption Order, 1997 (S.I. No. 365 of 1997)
Carriage of Dangerous Goods Act, 1998
Carriage of Dangerous Goods by Road Regulations, 2001 (S.I. No 492 of 2001)

Miscellaneous

EC Directive 91/477/EEC dated 8 June, 1991 on the Control of the Acquisition and Possession of Weapons. EC Directive 93/15/EEC dated 5 April, 1993 on the Harmonisation of the Provision Relating to the Placing on the Market and Supervision of Explosives for civil uses.